REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested.

The claims stand rejected based on Suzuki et al in view of Nguyen. In order to emphasize the patentable distinctions, new claims are presented herein. However, the previous rejection will be discussed.

Suzuki et al teaches a device that plays music, and admittedly obtains information about the placement of the users' feet during that music. The way in which the device works is entirely different than that claimed. Suzuki et al determines whether the user is stepping at the right rhythm. Calling this "gestures" at all is a stretch at best. Suzuki et al teaches nothing about obtaining videos, much less determining gestures. The rejection combines Suzuki et al with Nguyen. Nguyen admittedly shows that a person having ordinary skill in the art would <u>know how to</u> collect gestures. However, Nguyen does not make it obvious to collect gestures in a Suzuki et al type system. Suzuki et al teaches that <u>stepping position</u> is obtained, and teaches nothing about recognition of gestures at all. Simply combining Suzuki et al with Nguyen would be a combination based on hindsight; there is certainly nothing in either Suzuki et al or Nguyen which would suggest their

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combination.   Suzuki et al simply teaches stepping on devices,
and maintaining the positions and times when the stepping
occurred.   Real-time gesture recognition is entirely different,
and this combination is made entirely on hindsight.

Therefore, for these reasons, the hypothetical combination
of references is an improper combination, and the rejection
therefore does not meet the patent office's burden of providing
a prima facie showing of unpatentability.

Even assuming that the combination could be made, the
hypothetical combination still does not teach or suggest the
subject matter which is now claimed.   This combination would use
a Suzuki et al type system, combined with Nguyen's gesture
recognition.   Gesture recognition in Nguyen teaches recognizing
gestures, but teaches nothing about the claimed subject matter
of gesture probabilities for target gestures.   Nowhere is there
any teaching or suggestion of any kind of gesture probability in
Nguyen.   This is because Nguyen is an entirely different kind of
system.   It is not trying to recognize whether one of the
gestures is a proper gesture at a specified time associated with
the beat, but rather is trying to recognize the gestures
themselves.

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Each of the independent claims should be allowable for these reasons. The dependent claims should be allowable for similar reasons.

New claims 34-39 are also added herein and should be further allowable. These claims define automatically analyzing the audio data to automatically determine beat data. The previous rejection had reasoned that since the beat data was correlated with the audio songs, that it must be extracted. With all due respect, Suzuki et al does not extract the data from the music, but rather stores the beat data along with the music. The dependent claims such as 35, 37 and 39 further emphasize this distinction by claiming that the music is in MIDI, and that the beat data is extracted from a channel associated with MIDI, e.g. the drums.

This should obviate all remaining rejections in the case. Therefore, and in view of the above amendments and remarks, all of the claims should be in condition for allowance. A formal notice to that effect is respectfully solicited

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be
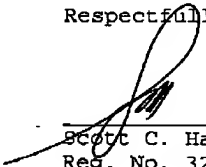
exhaustive, there may be reasons for patentability of any or all

pending claims (or other claims) that have not been expressed.

Finally, nothing in this paper should be construed as an intent

to concede any issue with regard to any claim, except as

specifically stated in this paper, and the amendment of any

claim does not necessarily signify concession of unpatentability

of the claim prior to its amendment.

Please apply any charges or credits to Deposit Account

No. 06-1050.

Respectfully submitted,

Date: 2/11/05

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